

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
VS. ) CASE NO. 5:15-CR-50080  
 )  
SHILO WATTS, )  
 )  
Defendant. )

TRANSCRIPT OF SENTENCING HEARING  
BEFORE THE HONORABLE TIMOTHY L. BROOKS  
May 13, 2016; 1:42 p.m.  
FAYETTEVILLE, ARKANSAS

FOR THE GOVERNMENT:

**Mr. Dustin S. Roberts**  
United States Attorney's Office  
414 Parker Avenue  
P.O. Box 1524  
Fort Smith, Arkansas 72902  
479-783-5125 Phone  
479-441-0578 Fax  
Dustin.Roberts@usdoj.gov

FOR THE DEFENDANT:

**Mr. Joe Alfaro**  
Assistant Federal Public Defender  
3739 N. Steele Blvd., Suite 280  
Fayetteville, AR 72703  
(479) 442-2306  
Joe\_alfaro@fd.org

Proceedings recorded in realtime via machine shorthand.

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**Dana Hayden, CCR, RMR, CRR**  
**Federal Official Court Reporter**  
**35 East Mountain Street**  
**Fayetteville, Arkansas 72701**

1 THE COURT: The next matter before the Court is  
2 the case of the United States versus Shilo Watts. Our  
3 case number is 5:15-CR-50080.

4 Dustin Roberts appears on behalf of the United  
5 States. Joe Alfaro appears on behalf of Mr. Watts.  
6 Donna Brown is here from U.S. probation.

7 Good afternoon, Mr. Watts.

8 THE DEFENDANT: Good afternoon, sir.

9 THE COURT: Do you understand the purpose of  
10 our hearing today is for the Court to impose its -- you  
11 can remain seated at this point, sir.

12 Do you understand that the purpose of our  
13 hearing today is for the Court to impose its sentence  
14 upon you as a consequence of your conviction in this  
15 case?

16 THE DEFENDANT: Yes, sir, I do.

17 THE COURT: In the last 24 hours, have you  
18 consumed any medications, drugs or other substances that  
19 would have the effect of clouding your mind or causing  
20 you not to understand what's going on here today?

21 THE DEFENDANT: No, sir, I have not.

22 THE COURT: Now, Mr. Alfaro has been your  
23 attorney throughout these proceedings; is that correct?

24 THE DEFENDANT: Yes, sir, correct.

25 THE COURT: Are you fully satisfied with his

1 legal services and representation of you in this matter?

2 THE DEFENDANT: Yes, sir, I am.

3 THE COURT: All right. Thank you, Mr. Watts.

4 THE DEFENDANT: Thank you, sir.

5 THE COURT: It would be appropriate that we  
6 begin our hearing with a brief review of the procedural  
7 history of your case that brings us to this point. You  
8 were indicted on what I believe originally was a  
9 three-count -- I'm sorry, a five-count indictment that  
10 alleged various counts, but essentially transporting a  
11 minor with the intent to engage in sexual activities and  
12 knowingly crossing a state line with the intent to  
13 engage in sexual activities with a child under the age  
14 of 12 years old.

15 You appeared back before the Court on January 6  
16 of this year, at which time you entered a plea of guilty  
17 to Count One of the indictment, which was one of the  
18 counts that charged you with knowingly transporting a  
19 minor with the intent to engage in criminal sexual  
20 activities.

21 I accepted your plea hearing -- or I accepted  
22 your guilty plea at that hearing, but I deferred  
23 approval of your plea agreement until such time as I  
24 could be informed by the contents of the presentence  
25 investigative report. So since you were here in

1 January, that's the process that we have been going  
2 through.

3 The probation officer filed the initial  
4 presentence report on April 6th of this year, and in  
5 response to that, the government had one objection and  
6 your attorney filed, I believe, 17 objections on your  
7 behalf.

8 The probation officer was able to resolve some  
9 of those objections but not all of those objections at  
10 that time and, instead, a final presentence report was  
11 filed on May 3rd of this year.

12 Now, at the same time that the final  
13 presentence report was filed, a document that we call an  
14 addendum was filed as well. The addendum is the  
15 document where the probation officer explains why some  
16 objections have been resolved and why others have not  
17 been resolved.

18 Our rules require that your attorney meet with  
19 you and go over these presentence reports that I have  
20 described, as well as the addendum, and I need to have  
21 you confirm on the record whether or not that has  
22 happened in your case. Did Mr. Alfaro meet with you and  
23 review these documents with you?

24 THE DEFENDANT: Yes, sir, he did.

25 THE COURT: Did he explain the contents of the

1 presentence report and the addendum to you?

2 THE DEFENDANT: Yes, sir, he did.

3 THE COURT: And did he answer any and all  
4 questions that you may have had?

5 THE DEFENDANT: Yes, sir, he did.

6 THE COURT: Mr. Alfaro, can you confirm on the  
7 record that you've received the initial and final  
8 presentence reports, as well as the addendum and that  
9 you have reviewed those with Mr. Watts and that you've  
10 answered any and all questions that he may have had?

11 MR. ALFARO: I have, your Honor.

12 THE COURT: All right. Well, in addition to  
13 the final presentence report and the addendum, the Court  
14 has received and reviewed the government's sentencing  
15 memorandum, the defendant's sentencing memorandum, and  
16 the Court has received a letter that's been written in  
17 support of Mr. Watts by someone who I understand to be  
18 an extremely close friend, and I appreciate the  
19 opportunity to have been able to read that letter.

20 Mr. Roberts, other than the documents that I  
21 have identified, are you aware of any other materials  
22 that have been submitted for the Court's review?

23 MR. ROBERTS: No, your Honor.

24 THE COURT: Mr. Alfaro?

25 MR. ALFARO: No, your Honor.

1           THE COURT: All right. Well, let's turn now to  
2 these objections. The government filed one objection, I  
3 believe, and my understanding is that that objection was  
4 resolved by the final presentence report. Is that  
5 correct?

6           MR. ROBERTS: It is, your Honor.

7           THE COURT: All right. After the filing of the  
8 final presentence report, numerous objections that the  
9 defendant had raised remained outstanding. Many of  
10 those objections have to do with the multiple count  
11 adjustments and the rules for multiple count adjustments  
12 in cases where there are multiple victims in a child sex  
13 trafficking case such as this.

14           Those objections are technical and I don't know  
15 that we need to take an extremely long amount of time  
16 for the Court to itemize what all those objections are  
17 since I understand that in the last few days, the  
18 government has conceded certain objections; and in light  
19 of that, as I understand as of late yesterday that  
20 Mr. Alfaro is withdrawing, I guess would be the proper  
21 term, certain other objections that he had. And I'll go  
22 over a little bit of a summary of that in a moment, but  
23 at this point, I want to make sure that my understanding  
24 is correct that with the concession by the government of  
25 groups 4, 5, 7 and 8, and with the defendant's

1 subsequent concession of groups 2, 3 and 6 that there  
2 remain at this point no other objections, or at least no  
3 other objections that would be guideline-determinative.

4 Is my understanding on that point correct,  
5 Mr. Alfaro?

6 MR. ALFARO: Your Honor, that would be correct.  
7 The only objection that we would still argue that is not  
8 guideline-determinative would be defense objection 16,  
9 referring to the prior charge that was ultimately  
10 dismissed in the PSR, Paragraph 140.

11 THE COURT: Paragraph 140?

12 MR. ALFARO: I believe that's correct, yes,  
13 Judge. Paragraph 140 on Page 19, that would be the only  
14 objection that is not guideline-determinative that we  
15 recognize but that we would still assert.

16 THE COURT: Oh, okay. I thought you were  
17 saying that there remains only one objection that is  
18 guideline-determinative, and you kind of threw me on  
19 that. Okay.

20 MR. ALFARO: I apologize, your Honor.

21 THE COURT: All right. Well, we will take this  
22 up in a second. I just want to make a clean record that  
23 the defense is still maintaining its  
24 nonguideline-determinative objection. I believe that  
25 was 16, did you say?

1 MR. ALFARO: Yes, your Honor.

2 THE COURT: Other than Objection Number 16, all  
3 of the other of the defendant's objections have either  
4 been conceded by the government or withdrawn by  
5 Mr. Watts; is that correct?

6 MR. ALFARO: Judge, I wouldn't classify that --  
7 I apologize for not clearing -- the other one we  
8 wouldn't withdraw -- we wouldn't withdraw any other  
9 guideline-determinative ones.

10 THE COURT: Okay.

11 MR. ALFARO: We would maintain those but  
12 recognize that the judge does not have to rule on those  
13 specific ones.

14 THE COURT: All right. So with the exception  
15 of the nonguideline-determinative objections, all other  
16 objections that do impact the guidelines have been  
17 either conceded by the government or are being  
18 withdrawn. Is that correct?

19 MR. ALFARO: That's correct, Judge.

20 THE COURT: And of the  
21 nonguideline-determinative objections, you would like to  
22 see the Court rule on your Objection Number 16, but you  
23 concede that the Court need not, and you're not seeking  
24 a ruling on the other nonguideline-determinative issues.  
25 Is that right?

1 MR. ALFARO: Correct, your Honor.

2 THE COURT: All right. Mr. Roberts, do you  
3 agree to the Court's recitation of the group concessions  
4 that I articulated a few moments ago, as well as is your  
5 understanding that the defendant has withdrawn its group  
6 objections that I itemized?

7 MR. ROBERTS: Your Honor, I believe the Court  
8 has it right. I do want to clarify. Objections 1  
9 through 6, which are factual objections, that's noted in  
10 the addendum. The defense is not claiming that those  
11 statements were not made by the victim; they're just  
12 saying that they're not true.

13 THE COURT: Right.

14 MR. ROBERTS: So with that clarification, yes,  
15 the Court has it right, your Honor.

16 THE COURT: All right. Mr. Alfaro, I'll let  
17 you be heard on your Objection Number 16 that goes to  
18 Paragraph 140 of the PSR.

19 MR. ALFARO: Thank your Honor.

20 Just briefly, this charge is potentially -- or  
21 let me rephrase that -- has factual information that  
22 we're not objecting to in that that information is  
23 contained in some sort of report. However, we are  
24 contesting the factual -- I guess the truth of those  
25 facts.

1           Given that this offense was dismissed, it  
2 wasn't put through the test of the judicial process, we  
3 would ask that it be removed because we believe it could  
4 affect Mr. Watts' placement in the BOP as far as their  
5 score of his risk or a danger as this is an assault  
6 charge.

7           So for that reason, given that it was dismissed  
8 and that he is contesting the facts in that paragraph as  
9 noted in our sentencing memo, we would object to that  
10 and ask that it be taken out, Judge. That's all I have.

11           THE COURT: Thank you, Mr. Alfaro.

12           Mr. Roberts?

13           MR. ROBERTS: Your Honor, pursuant to Rule 32,  
14 I don't believe the Court needs to make a ruling on that  
15 in that it does not affect the guidelines; it does not  
16 need to be considered for sentencing purposes.

17           I understand what they are saying as far as  
18 designation within BOP. I was planning on putting the  
19 probation officer up to prove it up if necessary, but it  
20 sounds like they're conceding that those reports say  
21 what they are referring to.

22           I think it's properly considered under "Other  
23 Arrests," your Honor.

24           THE COURT: All right. This is a  
25 nonguideline-determinative issue, and all things in this

1 case considered, it is not going to have any impact on  
2 the Court's sentencing decision, and for that reason the  
3 Court is going to deny the -- or overrule, I should say,  
4 the defendant's objection with the understanding that  
5 the premise of the objection is not -- that the court  
6 records do not show what Paragraph 140 purports them to  
7 show but, rather, the defendant is merely denying that  
8 he is liable for the conduct that is attributed to him  
9 in Paragraph 140.

10 So the Court's going to overrule the objection,  
11 but it will ask the probation officer to add a sentence  
12 at the end of Paragraph 140 which would state that the  
13 defendant denies that he committed the conduct stated in  
14 this paragraph.

15 The Court's ruling with regard to the other  
16 objections that are nonguideline-determinative will be  
17 that the Court need not rule on those, and the Court  
18 will not take those factual matters into consideration  
19 as part of sentencing, either.

20 With that being said, Mr. Alfaro, has the Court  
21 now made any record that you might seek it to make on  
22 your objections?

23 MR. ALFARO: I believe with the concessions, I  
24 think that's everything, Judge.

25 THE COURT: All right. That being the case,

1 the Court is going to instruct that the sentence be  
2 added, as I just mentioned, to Paragraph 140. And then  
3 it may require some overtime by the probation officer to  
4 figure this out, but the net effect of the revisions  
5 that need to be made -- well, it's going to start, I  
6 think, in Paragraph 123, and the following groupings  
7 should be removed: 4, 5, 7, and 8.

8           The groupings that remain would be 1, 2, 3, and  
9 6. That is going to have a corresponding mathematical  
10 revision that needs to be made in several paragraphs  
11 below that, I believe continuing all the way through the  
12 total, I think almost every paragraph until we get to  
13 the total offense level and including the total offense  
14 level, but I'll let you figure out which those are and  
15 then obviously we'll go over that again in a moment.

16           With those objections being resolved as the  
17 Court has instructed, and with those revisions to be  
18 made as I have instructed, the Court will otherwise  
19 adopt and approve the final presentence report without  
20 any other revisions or corrections.

21           And with that being said, the Court is now in a  
22 position to give final approval to the plea agreement in  
23 this case. The Court does so based on a finding that  
24 the offense of conviction in Count One adequately  
25 reflects the seriousness of Mr. Watts' actual criminal

1 behavior and conduct.

2 And the bottom line, Mr. Watts, that means that  
3 the sentence that the Court ultimately will impose in  
4 this case will be consistent with the plea agreement and  
5 the terms of the plea agreement that you and your  
6 attorney entered into with the government.

7 So with that business out of the way, I'd now  
8 like to turn more precisely to the sentencing, and we'll  
9 begin this portion of the hearing with an explanation of  
10 the factors that the Court has taken into consideration  
11 in arriving at what would be an appropriate sentence in  
12 this case.

13 And while the Court has taken many of these  
14 factors, or really all of these factors into  
15 consideration prior to arriving on the bench this  
16 afternoon, the Court will continue to evaluate and weigh  
17 these factors throughout the remainder of our hearing  
18 until the Court ultimately imposes sentence at the end  
19 of the hearing.

20 So Mr. Watts, the way that I explain the  
21 factors that the Court takes into consideration is in  
22 two parts. The starting place is the first part, which  
23 involves a calculation of the United States sentencing  
24 guidelines and then that results in a range of  
25 punishments within which the sentencing commission would

1 recommend that you be sentenced, and the Court must not  
2 only calculate that range, but it must also consider  
3 that as an advisory recommendation from the sentencing  
4 commission.

5 But because the guideline range is merely that,  
6 an advisory range or a recommended range, the Court must  
7 go to Phase 2, or the second step of the process; and at  
8 that point the Court must consider a whole host of  
9 factors that are set forth at a place in our law book  
10 known as Title 18 United States Code Section 3553(a).

11 And because that's kind of the chapter and  
12 verse where it's found in our code book, these factors  
13 are oftentimes referred to in a shorthand fashion as the  
14 3553(a) factors. So if you hear me use that term, it  
15 simply means the place in our code book where they're  
16 found. And I'm going to go over what those factors are  
17 in a moment, but our analysis should begin with a  
18 calculation of the guidelines.

19 As we have alluded to a few moments ago in  
20 dealing with the objections, the guideline calculation  
21 appears in the final presentence report, and for that  
22 reason, and because a lot of this is extremely  
23 technical, the Court is going to adopt and incorporate  
24 by reference the calculation that appears in the final  
25 presentence report as revised a few moments ago in the

1 Court's instructions, and the Court will also instruct  
2 that a revised final presentence report be prepared.  
3 The Court believes it is important in this instance that  
4 that be done and that it not just appear in the  
5 statement of reasons. But I am going to summarize the  
6 calculation for you, Mr. Watts, because I want to make  
7 sure that you understand this.

8           So you can think of it this way. Every  
9 different federal crime has a corresponding section of  
10 the guidelines that we use to make the guideline  
11 calculation, and here your offense -- or for your  
12 offense we use sentencing guideline Section 2G1.3, and  
13 that calls for a base offense level of 28.

14           Let me back up a little bit. In order to  
15 determine the guideline range, if you think of it as a  
16 grid and a grid has two axes, one axis is known as the  
17 offense level, and the other axis is known as the  
18 criminal history category. So I've got to determine two  
19 points, and once I know those two entry points, then I  
20 simply follow where they intersect and that will give me  
21 the guideline range of punishment.

22           So the first entry point that we must calculate  
23 is known as the offense level, and your base offense  
24 level, because we are using Section 2G1.3 as the  
25 applicable guideline, the calculation starts at a 28.

1           And then we look at the manner in which the  
2 crime was committed or the characteristics of the crime  
3 that separate the commission of the crime from the more  
4 generic or base offense level, if you will, and the  
5 following special offense characteristics have been  
6 applied here.

7           There is a two-level enhancement because of the  
8 fact that the minors, or at least some of the minors  
9 were in your care, custody or supervisory control.

10           There is another two-level enhancement that has  
11 been applied in this case specifically because the  
12 defendant was approximately 31 years old and the victim  
13 was approximately 12 years old when the abuse began, and  
14 the guideline provides that if a participant unduly  
15 influenced a minor to engage in prohibited sexual  
16 conduct, then that calls for this two-level enhancement  
17 that I have stated.

18           And finally, there is an additional two-level  
19 enhancement because the offenses were characterized by  
20 sexual activities and contact with the minor.

21           So we started with a 28. There's a total of  
22 six levels of enhancements and that gets us up to a  
23 Level 34. That is with regard to Count One.

24           There are other counts that we look to and have  
25 to perform the same basic calculation that I have just

1 laid out. They all start with a base offense level of  
2 28, and I believe that some of them -- several of them  
3 have the same special offense characteristics that I  
4 just mentioned; some don't.

5           The objections were made to whether some of the  
6 groups or the victims should be considered for  
7 calculation purposes or not. The long and short of it  
8 is four different groupings have been included in this  
9 calculation. The highest offense level that is achieved  
10 by any of those groupings is a 34, such as Group 1,  
11 Count One that I just explained to you.

12           The rules say that although we're going to  
13 calculate as a separate group the crimes committed upon  
14 each of these victims that remain at issue, we're going  
15 to use the highest adjusted offense level and so in your  
16 case the highest adjusted offense level is 34, which is  
17 Count One, or it's equal to the Count One in Group 1,  
18 all of that to say that your adjusted offense level in  
19 this case is a 34.

20           To that there is another adjustment that is  
21 made based on multiple counts and so you can think of it  
22 this way: Of the minor of the victims who have been  
23 included for grouping purposes, the highest adjusted  
24 offense level is a 34, but there are a total of four  
25 groupings that remain after all of the objections have

1 been resolved; and under our rules -- and the  
2 calculation can be complicated, but there's actually  
3 going to be a one-level adjustment for each of those,  
4 Groups 1, 2, 3 and 6.

5           So we add four levels to the 34. That gets us  
6 to a combined adjusted offense level of 38. So now  
7 there are some downward adjustments that you are  
8 entitled to from that point. Specifically the probation  
9 office has recommended a two-level downward adjustment  
10 for your acceptance of responsibility, and I think that  
11 that is appropriate here and that will be awarded.

12           And consistent with the terms of your plea  
13 agreement and upon motion of the government, the Court  
14 can award one further level of reduction.

15           Mr. Roberts, what says the government?

16           MR. ROBERTS: Government so moves for the  
17 one-level reduction, your Honor.

18           THE COURT: That motion will be granted and so  
19 you will receive, Mr. Watts, a total of three levels of  
20 reduction. It literally takes a calculator to do this,  
21 but that brings the new adjusted offense level to a 35.

22           And then we go to the next chapter of our  
23 guidelines, and in this case you are going to receive a  
24 five-level enhancement pursuant to Section 4B1.5(b), and  
25 this has to do with both the instant offense of

1 conviction being a covered sex crime, other situations  
2 not applying, and then also looking to the criminal  
3 history of the defendant. Again, the enhancement is  
4 five levels. The calculation is complicated, but  
5 because of those matters, it's a five-level enhancement.  
6 That makes your total offense level a 40.

7           Mr. Alfaro, because of the complicated nature  
8 of this computation, I'm going to ask whether you concur  
9 that the total offense level that we should be  
10 calculating should be a 40.

11           MR. ALFARO: We agree, your Honor.

12           THE COURT: Mr. Roberts?

13           MR. ROBERTS: I do, your Honor.

14           THE COURT: All right. So the second input is  
15 the criminal history category, and in order to determine  
16 that, we look at your prior criminal history, and  
17 pursuant to the scheme that's laid out in the  
18 guidelines, each prior criminal history that you have  
19 may or may not score points. But in your case, and for  
20 the reasons explained in Paragraphs 134 through 139, you  
21 score a total of nine criminal history points and that  
22 places you in criminal history category IV.

23           There is another special guideline provision  
24 that comes into effect that can be explained at Section  
25 4B1.5(b), but it doesn't change your criminal history

1 category in this instance. So your criminal history  
2 category is a IV. There are a total of six categories  
3 with I being the lowest and VI being the highest and so  
4 you're at the upper middle end there with a criminal  
5 history category IV.

6 So we now know those two inputs to our  
7 sentencing grid, and we simply follow to where those  
8 lines intersect. And at that point of intersection, I  
9 can tell you that the sentencing guidelines would  
10 recommend this Court sentence you as follows: To a  
11 period of incarceration of between 360 months and up to  
12 life imprisonment; for a period of supervised release to  
13 follow thereafter for a minimum of five years and up to  
14 life; to a fine of between \$25,000 and \$250,000; and to  
15 a special assessment in the sum of \$100.

16 Mr. Alfaro, do you concur that that is the  
17 correct calculation of the guidelines?

18 MR. ALFARO: We do, your Honor.

19 THE COURT: Mr. Carter (sic)?

20 MR. ROBERTS: Same, your Honor, yes.

21 THE COURT: All right. We now move to Phase 2,  
22 or the second step in the process of the Court's factors  
23 to consider. These are the so-called 3553(a) factors  
24 that I alluded to a few moments ago, Mr. Watts.

25 Those factors as pertinent here would include

1 such things as the Court's review and consideration of  
2 the nature and the circumstances of the offense and the  
3 method and manner that it was committed. It also  
4 involves the Court's review of your personal history,  
5 background and characteristics. It also involves the  
6 Court's consideration of other sentences that have been  
7 imposed upon other defendants who have been convicted of  
8 the same or similar crimes and who have the same or  
9 similar criminal history, with the objective being that  
10 the Court should avoid any unwarranted differences  
11 across those sentences.

12           Ultimately there is another factor that I think  
13 is always very important and that is this: The Court is  
14 to look at you as an individual, not as some statistic  
15 out of a book, and to custom-tailor a sentence for you  
16 which is sufficient, but not greater than necessary, to  
17 achieve and fulfill the purposes for which we sentence  
18 people who are convicted of federal crimes in the first  
19 place.

20           So what are those purposes? Congress says that  
21 in fashioning this custom-made sentence, the Court  
22 should do so in a manner such that the sentence reflects  
23 the seriousness of the offense, so that it will promote  
24 respect for the law, so that it will serve as a  
25 deterrent to both you specifically and to the community

1 more broadly. A sentence should be just. A sentence  
2 should serve to protect the public from any future  
3 crimes that you might otherwise commit.

4 So the Court has taken into account, from all  
5 of the information that is available to it, all of the  
6 purposes of sentencing that I have just mentioned, as  
7 well as the other 3553(a) factors that I itemized for  
8 you, and I have taken those into consideration in the  
9 context of the advice that I have received from the  
10 sentencing commission and our guideline calculation.

11 So what we're going to do next is I'm going to  
12 ask for the attorneys for both parties to offer any  
13 sentencing recommendation or argument that they might  
14 have. I'm going to ask Mr. Roberts to go first and then  
15 I'll ask Mr. Alfaro to go second and then I'm going to  
16 give you an opportunity to make any statement that you  
17 might like to make to the Court in mitigation of the  
18 sentence that the Court might otherwise impose.

19 You will not be obligated to make a statement,  
20 but I want you to know that you'll be given that  
21 opportunity, and I'll certainly be glad to hear anything  
22 that you have to say.

23 Mr. Roberts, you may proceed.

24 MR. ROBERTS: Thank your Honor.

25 Your Honor, the government recommends that this

1 Court impose a life sentence on Mr. Watts. I don't do  
2 so lightly, but I believe it is clear to the Court,  
3 based on the facts before it, that Mr. Watts is the  
4 single biggest, or perhaps most prolific child molester  
5 ever presented to this Court in terms of number of  
6 victims.

7 I could be up here arguing the seriousness of  
8 the offense or the need to protect the public, but I  
9 think the purpose of providing a just punishment in this  
10 case is the driving factor.

11 The guidelines, of course, are advisory, and  
12 while I'm usually the one arguing to the Court why they  
13 should be followed, I think this is a good example why  
14 they're advisory actually because if you look at the  
15 calculation in this case, it takes individuals who have  
16 been subjected to molestation, children who have been  
17 subjected to molestation by this man over and over and  
18 over again, and it reduces them to a point, one point in  
19 a grouping. That is unacceptable. We're talking about  
20 at least four minors here.

21 That is not something that the guidelines can  
22 ever take into appropriate context. So the 3553(a)  
23 factors of providing a just punishment are easily  
24 supported by, in the government's perspective.

25 The facts are very easy. He's a

1 self-proclaimed pedophile. He committed sexual  
2 molestation, sexual acts on his nephew; based on his  
3 criminal history, on the nephew's friend. Moved outside  
4 the country; has committed sexual molestation of  
5 children in different countries. Ended up in the  
6 Marshall Islands, got into law enforcement there, a  
7 position of public trust, and actually got fired because  
8 he was molesting so many children.

9           There he came into contact with a comparatively  
10 uneducated and underprivileged part of the world, and  
11 when he was told that he was going to be removed, he  
12 brought those children, those victims, the easy prey, to  
13 America. He didn't do that for them. He did that to  
14 fulfill his own sexually deviant desires.

15           The relevant conduct overall shows, depending  
16 on if you go by his statement or by the victim's, either  
17 14 or 18, approximately, victims. Outstanding.

18           At what point does a just punishment call for a  
19 life sentence? I would argue to this Court -- and I  
20 have argued to this Court -- that one victim's enough.  
21 I've argued that two victims is enough. I've argued  
22 that more than two is way too many. But what about  
23 five, or ten, fifteen? I've never argued something so  
24 high.

25           And this is not a single instance of abuse on

1 these minors. This is ongoing. This is something  
2 that's going to happen -- or did happen over and over  
3 and over again in their life over a period in America  
4 for four years, from 2008 to 2012, and that doesn't  
5 count what happened in the Marshall Islands.

6           The defendant filed a sentencing memo in this  
7 case, and in the sentencing memo, it spends a lot of  
8 time talking about how he was sexually abused as a  
9 child, two instances of sexual abuse, and that he never  
10 got past it. It turned him essentially into a  
11 pedophile. He turns around and does that to 14  
12 children.

13           This man right here knows better than anybody  
14 in this room what type -- what results sexual abuse has  
15 or effects sexual abuse has on an individual. He did it  
16 to 14, by his own admission; up to 18 known to law  
17 enforcement, if you take the victims. He better than  
18 anybody should know what he was doing, but he did that  
19 for his own sexually deviant purposes.

20           In the sentencing memo, they reference and  
21 attach a psychosexual development, which at first I was  
22 going to object to because I wanted a shot at the  
23 doctor, but when I read it, it was, again, outstanding.  
24 Moderate to high risk of recidivism.

25           Their own doctor is telling you, if you release

1 this man, he's going to do it again. 2.7 times the  
2 likelihood of recidivating based on a comparison to  
3 other sex offenders. 2.7 times more likely. That is  
4 beyond anything I've read in a psychosexual development,  
5 and I know they've been presented to court in other  
6 cases, I believe by the federal defender's office, and I  
7 would submit that that is probably the highest  
8 likelihood of recidivism that this Court has ever seen.

9           The government filed sentencing memos in this  
10 case, and they stand for themselves, but looking at the  
11 jail letters, I think that can't go unnoticed that when  
12 he was before the Court, he was explaining his conduct  
13 and explaining that he was a pedophile that never got  
14 treatment; but then after several convictions, after a  
15 time to reflect and consider what he did to those  
16 minors, being incarcerated for several years, he goes  
17 back to we're wrong, society is wrong for punishing him;  
18 that those minors, they should be allowed to be sexually  
19 molested by men like Mr. Watts. That is unacceptable,  
20 your Honor.

21           The defendant in this case pled guilty, which,  
22 I listed a lot of cases in my sentencing memo to compare  
23 this one to, and the only one I can get close to is the  
24 Tony Alamo case. That's the only one that I've ever  
25 seen that's in the Western District, ever heard of in

1 the Western District that involved so many minors.

2 True, Tony Alamo tried the case, but the  
3 defendant in this case, he confessed. This is not a  
4 case where you take this to trial. This is a case where  
5 as a defense attorney or as a defendant, you plead  
6 guilty and hope that you get a guideline sentence of 360  
7 to life instead of just life and that gives you a hope  
8 to argue. He got the benefit of that bargain. He does  
9 not deserve another benefit for that.

10 Your Honor, I think I could go on and on about  
11 this case for a long time, but in summary there, at  
12 least in my mind, there are two considerations. One,  
13 providing justice for the crimes he's already committed.  
14 I think I've hit that. But also, the Court has to be  
15 aware of, or at least considerate of, the idea that  
16 there's 14 or 18 kids, depending on how you count,  
17 that's already been molested by this.

18 If that number ever becomes 15 or 19, that  
19 means that this justice system, that this -- that we  
20 have failed. There should never be allowed -- or it  
21 should never be allowed for this individual to victimize  
22 one more kid. Ever. No chance. And the only way to do  
23 that is a life sentence. Thank you, your Honor.

24 THE COURT: Thank you, Mr. Roberts.

25 Mr. Alfaro, I'm going to let you make your

1 statement from counsel table today. You may proceed.

2 THE COURT: Thank your Honor.

3 Your Honor, we would respectfully request a  
4 sentence of 45 years imprisonment to run concurrently  
5 with already imposed state offenses that Mr. Watts is  
6 serving, as that would be sufficient and not greater  
7 than necessary under the 3553(a) factors.

8 Mr. Watts has committed terrible offenses, your  
9 Honor. There's no escaping that. Mr. Watts has  
10 certainly never escaped that. I'm not sure if the  
11 government was trying to state that Mr. Watts was  
12 somehow inferring that society is wrong.

13 I think if you read those letters thoroughly,  
14 which I'm sure this Court has already read, he's  
15 accepted responsibility from day one. Before he was  
16 even going to be charged federally when he was arrested  
17 back in, I believe it was 2012-2013, he gave a recorded  
18 interview with law enforcement and admitted to  
19 everything that he had ever done, Judge. So from day  
20 one, he has accepted responsibility, and he has admitted  
21 his conduct, and he is remorseful for what he has done.

22 You know, when I first met with Mr. Watts about  
23 this and about his confession, you know, he told me  
24 something I think that's very resonating. Who would  
25 voluntarily choose to live like this, to have these

1 attractions, knowing that they were wrong. Who would  
2 want to be attracted to minors, knowing that they would  
3 be persecuted and being treated like a leper. "Who  
4 would want to live like that, Mr. Alfaro?" And that  
5 struck a chord with me, Judge, because that's exactly  
6 how I perceive this case.

7           As you read in the letters that he wrote, this  
8 isn't a choice for him. I mean, he makes the choice to  
9 succumb to these urges, but these urges, these demons  
10 are not a choice for him. It is a documented mental  
11 health disorder, pedophilia disorder, and he has been  
12 diagnosed with that, Judge.

13           We can see that from his letters because in the  
14 letter the government submitted to the Court, on the  
15 first page, this is a letter that Mr. Watts wrote to one  
16 of his sentencing judges in Texas: "I wish, and have  
17 wished to God for a billion times, to be normal. I  
18 fought and I fought so hard to suppress my sexual  
19 preferences with an urgency between life and death. I  
20 was unsuccessful. As a Bexar County deputy, I held my  
21 .40-caliber Glock to my head many a night. I could  
22 never pull the trigger. I wish I were brave enough and  
23 strong enough to have, though. In Bosnia, I purposely  
24 walked into an area known to be polluted with land  
25 mines."

1 I think that goes to show that he is  
2 remorseful, and he feels the guilt not only of who he is  
3 but what he has done.

4 As with all offenses, your Honor, there is a  
5 sliding scale. There is a large number of victims in  
6 totality of his case. There's four immediately,  
7 relevant conduct, and the other ones he's admitted to,  
8 your Honor.

9 But as other cases that we've cited in our  
10 memo, he's not using force, he's not using weapons, he's  
11 not using threats to do this conduct, and I think that's  
12 an important delineating line.

13 If you sentence Mr. Watts to life, what about  
14 the person who has 12, 14, 15 victims but who beats  
15 them, tortures them, holds them at knifepoint, bounds  
16 them in bondage in the basement, in addition to  
17 producing child pornography and taking pictures and  
18 doing all of those things? How do you treat that  
19 person? Because in our opinion, that person is much  
20 worse than what Mr. Watts does.

21 I think in the letters and in the evaluations  
22 we attached by -- from Dr. Wallace, he referred to a  
23 code of conduct, and I realize that that seems terrible,  
24 Judge, but I think it's mitigating. He said, "Look, I  
25 realize that I don't have control of myself; so I have a

1 code of conduct: I will ask these minors to engage in  
2 this conduct. I will never have them touch me, I will  
3 never anally penetrate them and never take pictures or  
4 produce pornography. If they say no, I respect that  
5 decision and don't touch them."

6 And we know that happened in the PSR. It shows  
7 that to one of the boys, Judge, that he requested and it  
8 was denied and he respected that decision, and I think  
9 that's something mitigating when you look at the way  
10 this offense can be committed.

11 One thing that the government and myself also  
12 pointed out was this case that we all had together, the  
13 Rivera case. And it's not a perfect comparison, Judge,  
14 but I think it touches on the point that I just made.  
15 One of the driving forces in that case was the depravity  
16 of heart that that defendant committed his crimes in the  
17 middle of the day, chasing down minors, grabbing them,  
18 reaching down by force, and Mr. Watts simply did not do  
19 anything like that.

20 So in that sense, his facts are mitigating, and  
21 while there weren't as many hands-on offense in  
22 Mr. Rivera's case, he was still held accountable for  
23 something like 30 victims, Judge.

24 Regarding Mr. Watts' history and  
25 characteristics, we will stand on the facts in our

1 sentencing memo, the PSR, and the report of Dr. Wallace.  
2 He has been -- he had a terrible life, Judge, and the  
3 PSR shows that. Dr. Wallace at least attributed his  
4 molestation by his family member and by this male at  
5 school to the person that he has become today. And the  
6 purpose of this -- the point of me raising that is this,  
7 Judge: I think that the government's statement was  
8 somehow referring that maybe he will be let out someday  
9 and reoffend. That is not what we're asking this Court  
10 to do.

11 In regards to the need for just punishment,  
12 deterrence, protecting the public, in addition to  
13 allowing Mr. Watts to get rehabilitated mental health  
14 treatment, the sentence that we are requesting is  
15 severe. It's not lenient.

16 To illustrate that, this case initially started  
17 out in Texas, and the offer that the U.S. Attorney's  
18 Office presented to his attorney was a 11(c)(1)(C) plea  
19 to 30 years. Of course, that was never accepted and  
20 this case was sent here, but I think it's interesting to  
21 know how one attorney's office could offer, even  
22 consider that, and another is advocating for life,  
23 Judge.

24 But the overall point that I'd like to make in  
25 the requested sentence is he is not going to get out

1 anytime soon. Even if this Court were to impose the  
2 sentence requested, Mr. Watts will have to go back to  
3 Texas. He is not eligible for release -- or for parole  
4 until November 5th, 2035, which is almost about 20  
5 years.

6 Even if he gets released that time, which I  
7 highly doubt, if he gets released, he's got to serve  
8 another lengthy sentence for whatever time would be  
9 remaining in the federal prison. So we're not asking  
10 for a slap on the wrist. We're not asking for him to be  
11 out in the next 10, 15, or even 20 years, Judge. So  
12 it's not like he's going to be out soon or even  
13 relatively soon, with the sentence requested.

14 In Texas he is going to have access to their  
15 sex offender treatment program. I've spoken with the  
16 administrators at that program. He can't be admitted  
17 until he's nearing parole eligibility. It's an 18-month  
18 program. He's housed with other offenders. He is not  
19 ever released to the public until that program is  
20 completed and he's eligible for parole, which of course  
21 he will go back to the BOP. But he's going to have  
22 access to that.

23 In the BOP he's going to have additional access  
24 to programs similar to that, should that be necessary.  
25 And this Texas program, Judge, in my talking with other

1 attorneys, appears to be extremely reputable.

2 I think if you look at Mr. Watts as a person,  
3 Judge, I think you see that on the one hand, we have a  
4 person that committed terrible acts. On the other hand,  
5 you have a person who genuinely loves these minors, and  
6 I just, I disagree with the government's statement that  
7 the reason he brought these boys over was just so he  
8 could have his own pool of offenders. I don't think  
9 that was the reason, Judge. That may have been part of  
10 the reason, but I think ultimately when you're looking  
11 at Mr. Watts as a person, I think you have to see that  
12 side, that he loves these boys. He wanted to take care  
13 of them and support them any way he could, and it wasn't  
14 all about these sexual acts, Judge, and that's what  
15 Mr. Watts is hoping that you'll see.

16 For those reasons and the reasons in our  
17 sentencing memo, your Honor, what Mr. Watts is  
18 essentially asking for, he's asking for hope. He hopes  
19 that he can be given a chance to address his mental  
20 disorders and battle these urges. He hopes that maybe  
21 one day long from now, he can be released back into the  
22 world to live out whatever few years he has as an old  
23 man, to be a productive member of society and not  
24 reoffend. He hopes and respectfully requests that he be  
25 given that opportunity, Judge, as opposed to a sentence

1 to death in prison. Thank you.

2 THE COURT: All right. One area of inquiry,  
3 Mr. Alfaro.

4 MR. ALFARO: Yes, your Honor.

5 THE COURT: You said he has how many years left  
6 in the Texas system?

7 MR. ALFARO: I have a sheet here, Judge. If  
8 you would like me to approach, I can give you a copy.  
9 His projected release date is May 6, 2058. His parole  
10 eligibility date, which would be the earliest he could  
11 be released, would be November 5th, 2035. Before he  
12 would be released, I am told by the sex offender  
13 treatment program he would have to go through that  
14 18-month program.

15 THE COURT: All right. So my question is this.  
16 It sounds like before he would be eligible for parole --  
17 almost 20 years left to go -- this Court has to make a  
18 decision about whether to sentence him to a specific  
19 term of months or to a life sentence.

20 Do you have any understanding or knowledge as  
21 to whether what Texas does with him would be dependent  
22 on what this Court does? In other words, if this Court  
23 were to give him a life sentence as opposed to a term of  
24 months, might Texas say, well, we're going to cut him  
25 loose and let him serve life in the Bureau of Prisons?

1 MR. ALFARO: I do not have any idea of how that  
2 would work. Given that he's already serving that  
3 sentence, I'm not sure if they would actually do that,  
4 Judge, but I have no answer one way or the other.

5 THE COURT: All right. Do you have any  
6 knowledge, Mr. Roberts?

7 MR. ROBERTS: Based on Texas law, no, your  
8 Honor. I can tell you that in Arkansas that is not the  
9 customary practice. My experience is that he serves the  
10 time in Arkansas prison. Then when he's paroled or he's  
11 released, he rolls into federal custody.

12 THE COURT: All right.

13 All right. Mr. Watts, would you like to make a  
14 statement?

15 THE DEFENDANT: Yes, sir, I would.

16 THE COURT: All right.

17 THE DEFENDANT: Excuse me.

18 Your Honor, I stand before you today a man who  
19 has fully cooperated with authorities, a man who  
20 voluntarily surrendered himself to a foreign government  
21 when I could have very easily vanished into a number of  
22 different countries with a new identity.

23 I honestly believe not fleeing and taking  
24 responsibility for my actions by cooperation would count  
25 for something, your Honor. Truth be told, not

1 disappearing off the conventional grid was a difficult  
2 decision, a decision I pondered daily, but it was a  
3 decision I chose for my mother, for my brother and for,  
4 most importantly, my victims, of whom, as this was going  
5 on, they called me, contacted me via e-mail and asked  
6 what should they do. I specifically told them to  
7 cooperate with authorities.

8 I'm pleading with you, sir, to please allow  
9 cooperation to count for something other than the  
10 harshest punishment possible. My continued cooperation,  
11 my wanting to take responsibility for my action out of  
12 guilt and remorse has been met only with contempt, utter  
13 hatred and recrimination. Where is the incentive for  
14 cooperation? To date I have experienced none, your  
15 Honor.

16 I can imagine you have well too many cases of  
17 this nature cross your desk, and I can also imagine your  
18 most exasperating question is why. For the past 1,103  
19 days, I have asked myself that same question, why. I do  
20 not know if my affliction is the symptom of my early  
21 childhood introduction to sex, but it's an affliction I  
22 would not wish upon my worst enemy. The tragic grain of  
23 truth to why is I just don't know, your Honor. If I had  
24 the answer, I would certainly say so to prevent  
25 victimization.

1           What I can say, however, is that I sought out  
2 help where absolutely no help exists. Not even my  
3 mother, my cousin, not my best friend heard me when I  
4 confessed -- excuse me -- when I confessed this  
5 affliction to them in my early 20s.

6           In a desperate search for some kind of support  
7 and early intervention, I found none. I know this means  
8 nothing now, but would things be different if this  
9 subject wasn't so taboo? There are support groups for  
10 everything under the sun meant to curb negative and  
11 damaging behaviors, but there's absolutely nothing out  
12 there for preoffenders to go to. It doesn't exist.

13           I don't understand why it seems that no one  
14 cares about pre- -- why no one understands about a  
15 preoffending support network where people like myself  
16 who want treatment can go for help. All anyone cares  
17 about, it seems, is incarcerating sex offenders as long  
18 as possible after the fact.

19           What sense does this make, your Honor? If it's  
20 even remotely possible to prevent victimization, with  
21 the advent of a preoffending support network, why does  
22 no one seem willing to invest the time and energy to  
23 establish such a thing.

24           Your Honor, I submitted a nine-page  
25 comprehensive preoffending support group proposal that I

1 honestly believe would help reduce victimization and  
2 reduce the amount of times you and other judges would  
3 have to hear cases such as this.

4           Your Honor, this preoffending support group  
5 proposal has been ignored and now is lost. Not a single  
6 copy can be located. Maybe the important answer to why,  
7 your Honor, can be found through early interdiction,  
8 prevention and mitigation, for this will give  
9 preoffenders like myself, when I was looking for  
10 something as this out there wanting a -- it would offer  
11 us a help -- excuse me -- it would offer us a safe  
12 option to contribute to research and development, for is  
13 it not through research and development that answers  
14 come.

15           Your Honor, if you are interested, I pledge  
16 before you today to personally keep you informed and  
17 updated on my attempts to establish through professional  
18 channels a preoffending rehabilitative support network.  
19 I will also, if you are interested, keep you informed of  
20 my attempts at rehabilitation.

21           I am willing to volunteer my body, my mind to  
22 any test, experiment and/or treatment to prove my strong  
23 desire to rehabilitate and earn a voice of support to  
24 fellow citizens suffering from this affliction, citizens  
25 who currently have no options for preoffending help.

1           Your Honor, will you please consider my  
2 complete and full cooperation with the government in  
3 your sentencing decision. May I respectfully request  
4 you strongly consider the sentence my attorney has  
5 proposed. I won't be final -- this sentence will give  
6 me a possible release at the age of 80 years old.

7           May I also respectfully request that you  
8 recommend my confinement to BOP Littleton, Colorado, a  
9 facility that specializes in sex offender treatment.  
10 And, sir, I know actions speak louder than words. I'm  
11 hoping that you can see my remorse and my regret through  
12 my voluntary surrender to a foreign government overseas.

13           I thank you for your time and your  
14 consideration, your Honor. I would love the opportunity  
15 to answer any questions you may have that will assist  
16 you in your decision.

17           THE COURT: Well, thank you very much,  
18 Mr. Watts. I do not believe that I have any questions  
19 for you. The PSR in this case is quite extensive, and  
20 much of what you say is true with regard to the fact  
21 that you've been quite forthcoming, and all of that  
22 information has been made available to the Court, either  
23 in the PSR or in the other letters that have been made  
24 reference to or in Dr. Wallace's report. So I think  
25 between all of that, I have a really good understanding,

1 but I do appreciate your very well-thought-out  
2 allocution to this Court.

3 The Court is going to stand in recess for about  
4 15 minutes. Everyone should be back in their place by  
5 about 3:00.

6 (Recess from 2:48 p.m. to 3:06 p.m.)

7 THE COURT: All right. Mr. Watts and  
8 Mr. Alfaro, if you'd remaining standing, everyone else  
9 can be seated.

10 This is a difficult sentencing because of the  
11 absolute seriousness of the nature of the offense and  
12 the gravity of the situation in terms of the potential  
13 sentencing range in this case. I think that this, if I  
14 can recall correctly, is probably the first time that  
15 the defense attorney has ever asked for, as a  
16 recommendation, a sentence as high as 45 years, and I  
17 think that that speaks volumes about the seriousness of  
18 this case.

19 So we know that the guideline calculation here  
20 is 360 months to life, which, just by virtue of that  
21 large range, means that the 3553(a) factors take on such  
22 great importance here as to really control the  
23 sentencing decision.

24 In applying the 3553(a) factors to the facts of  
25 this case -- or really I should probably say that as we

1 look at the facts of the case and apply the 3553(a)  
2 factors to them, the factors apply in almost an  
3 aggravating fashion across the board, but I believe that  
4 there are some mitigating factors, and I want to start  
5 with those.

6           Mr. Watts has been before other courts before  
7 and, yet, there have been additional offenses. So I  
8 don't know whether his statements and demeanor to the  
9 Court today are genuine or not. In the past it hasn't  
10 seemed to have had a whole lot of impact, at least in  
11 terms of deterrence.

12           But in any event, in a mitigating sense,  
13 Mr. Watts is a very interesting defendant in the sense  
14 that I don't know that this Court has yet encountered  
15 someone who is as open and up front and as forthcoming  
16 of his current crimes for which he is being sentenced,  
17 as well as past offenses, and as well as his personal  
18 affliction. So that's something that you don't see very  
19 often.

20           The Court also would find as mitigating -- I'm  
21 not sure how far this goes, but he certainly didn't have  
22 the best of upbringings. There's at least a couple of  
23 encounters in his very early, formative years that may  
24 or may not account for or explain who he developed into  
25 as he grew older.

1           The Court finds that in certain respects, the  
2 report of Dr. Wallace is mitigating in the sense that  
3 Dr. Wallace has diagnosed Mr. Watts with psychological  
4 disorder. He has been diagnosed with a known disorder  
5 under the DSM known as pedophilic disorder, and  
6 Dr. Wallace is a person who has appeared and given  
7 testimony to this Court. He is trained and experienced  
8 in this field, and the Court has been well informed by  
9 his evaluation and his report, and Dr. Wallace's  
10 finding, the Court -- or his diagnosis the Court very  
11 much believes. And so to the extent that there's a  
12 psychological explanation behind some of the conduct,  
13 the Court can at least recognize that it is a  
14 psychological disorder as opposed to some more  
15 evil-hearted or sociopathic causation.

16           The Court has received a letter from Mr. Watts'  
17 friend, from I understand the Middle East, and the  
18 friend states that he knows and understands the charges  
19 that Mr. Watts faced and has been convicted of and  
20 nonetheless, he remains supportive of his friend. And  
21 he makes a few points and tells a few stories about how  
22 there is more to Mr. Watts than what he is charged with  
23 and what he has been convicted of. And the Court has no  
24 reason not to believe that, and the Court finds as  
25 mitigating that it must recognize that Mr. Watts is not

1 completely defined by his conviction in this case.

2           The Court also finds as mitigating the fact  
3 that in a very unique way, at least unique in the sense  
4 that it is more profound than a lot of cases, Mr. Watts  
5 has accepted responsibility. He's tried to be as open  
6 and forthcoming about his predilections and the causes  
7 for them. He's volunteered his body and his brain for  
8 study, and he's fully acknowledged his wrongdoing and so  
9 on a scale of accepting responsibility, the Court finds  
10 that that is extremely mitigating. And to Mr. Watts'  
11 point, his cooperation extended to not resisting being  
12 brought -- coming back voluntarily to the United States  
13 to face up to these crimes.

14           So after having read all of the presentence  
15 report, having read the sentencing memorandums and the  
16 attachments to the sentencing memorandums, the letters,  
17 Dr. Wallace's report, I initially thought that I was  
18 going to have a very difficult time coming up with many  
19 mitigating facts, but as I thought through it more, I  
20 think that there are several things that the Court can  
21 take into account as mitigating as it looks to the  
22 3553(a) factors. And for the most part, these go to  
23 mitigate the nature and circumstances of certain edges  
24 of the offense; in other respects they go to the  
25 defendant's personal background, history and

1 characteristics.

2 But obviously there are aggravating  
3 circumstances here, and in looking at the 3553(a)  
4 factors and the facts of the case as set forth in the  
5 PSR and other materials that I just mentioned that the  
6 Court has reviewed, the 3553(a) factors can really be  
7 viewed in an aggravating light to almost every single  
8 factor and every single purpose of sentencing.

9 The offense of conviction, combined with the  
10 relevant conduct, which adds up to something in the  
11 range of I think 14 documented victims -- and the PSR  
12 would indicate that there are likely others but they  
13 couldn't take a statement from them -- I think in terms  
14 of hands-on sexual activity is probably, if not  
15 absolutely the most number of separate hands-on victims  
16 of any defendant that this Court has ever sentenced.

17 Mr. Alfaro makes the point that, "Well, Judge,  
18 it could be worse. He could have, you know, held them  
19 down, tied them up, put a gun to their head, put a knife  
20 to their throat, and he didn't do any of that. He  
21 always asked permission." Okay. But the fact remains  
22 that despite the concept that it could have been worse,  
23 it is extraordinarily bad just as face value. And not  
24 only is it bad, Mr. Watts, but it quite possibly is the  
25 worst overall conduct that this Court has faced

1 involving sex trafficking or sexual offenses against  
2 minors.

3           So the nature and circumstances of the offense,  
4 although we can soften some of the edges based on the  
5 mitigating things that I said, is still extraordinarily  
6 serious and viewed in a very aggravating sense.

7           As to your personal history, background and  
8 characteristics, I think many of the factors that I  
9 mentioned earlier that weigh in a mitigating way, those  
10 all come in under the factor of your personal history  
11 and background. But, of course, criminal history comes  
12 in there as well, and you do have a rather significant  
13 criminal history.

14           And, you know, a lot of times this Court sees  
15 first-time offenders, and the Court kind of almost  
16 always, unless there's some good reason not to, is at  
17 least inclined to cut a first-time offender a break and  
18 then the more times that they come back, there's a  
19 direct correlation between the Court's willingness to  
20 cut them any slack. And given your criminal history,  
21 given that you find yourself as a criminal history  
22 category IV, there just isn't any room to give you any  
23 consideration for mitigating or lack of a criminal  
24 history. Your criminal history is very well established  
25 and is viewed in a very aggravating sense.

1           With regard to the need to avoid sentencing  
2 disparity, the Court has gone back and reviewed  
3 sentences in cases before this Court involving sex  
4 offenses against children, sex trafficking, and I  
5 realized that I had not ever sentenced anyone to life in  
6 terms of that term "life" before. The Court has imposed  
7 sentences in terms of years, which, combined with their  
8 age effectively meant that they would be in prison for  
9 the rest of their life, but the Court has never  
10 actually, that I can recall for a sex offense, ever  
11 sentenced someone to life.

12           But of the most severe of those that the Court  
13 has sentenced to significant, very significant terms of  
14 years that would be a proxy for their life, your conduct  
15 and the nature and circumstances of this case calls for  
16 greater punishment than anyone else with regard to  
17 similar types of crimes, or in the same categorical  
18 types of crimes that this Court has sentenced, and the  
19 Court cannot lose sight of that.

20           Now, I would also say that your own attorney is  
21 advocating for a sentence of 45 years, and that's  
22 probably towards the very top but not the most that the  
23 Court has ever sentenced anyone to as it is.

24           And when we get to the other factor of what is  
25 just, what is a sentence that would be sufficient, but

1 not greater than necessary to fulfill all of the  
2 purposes of sentencing, and when we look at those  
3 individual purposes, we start with the fact that a  
4 sentence should be individualized, and it should  
5 reflect, among other things, the seriousness of the  
6 offense. I've already spoken at length about how I view  
7 the seriousness of the offense and so, therefore, taking  
8 that purpose into consideration, the sentence should be  
9 towards the maximum possibility.

10           When the Court looks at the need to provide  
11 just punishment, I think I interpret just punishment to  
12 mean a punishment that fits the crime. Sometimes the  
13 guidelines are out of whack with what is just, what is  
14 appropriate for the crime and so, you know, the  
15 guideline range in certain situations can ring up a  
16 really high number, and when you step back and look at  
17 it, that's just not just; that is not in context; that  
18 is not appropriate for the offense.

19           In this case certainly the guideline range of  
20 360 months to life would be a just punishment, and for  
21 the same reasons that I have explained a few moments  
22 ago, a just punishment in this case would be at the very  
23 upper end of that range, including a life sentence.  
24 That is just what would be appropriate, given the extent  
25 of the criminal activities that have occurred here.

1           There's a factor of promoting respect for the  
2 law. You know, I'm not sure what to make of that  
3 purpose here. Mr. Watts, in his attitude and demeanor  
4 and acceptance of responsibility, has portrayed a person  
5 who in some respects has respect for the law. His  
6 argument is that he understands the law is there. To a  
7 certain extent he disagrees with it. He thinks that  
8 boys, young boys should be able to make these decisions  
9 on their own; but for the most part, he recognizes that  
10 the law is there and his defense is more or less that  
11 "it's an addiction and I just can't help myself; I just  
12 try to be polite and appropriate when I engage in this  
13 activity."

14           I don't know that that, at the end of the day,  
15 represents respect for the law, but that is not one of  
16 the Court's greater concerns. I think deterrence is a  
17 concern of the Court. Obviously this repetition of  
18 activity the Court is greatly concerned about and, thus,  
19 the punishment has to adequately reflect deterrence.  
20 But at the same time, the Court has to temper that  
21 conclusion with the fact that Mr. Watts is a pedophile,  
22 and I don't know that any sentence that the Court  
23 imposes would ever deter him from his predilections.

24           I think ultimately knowing that we are at the  
25 upper end of the guideline range and that the guideline

1 range is 360 months to life, and having said all that  
2 I've said about each of the other factors that it comes  
3 down to, when the Court comes down to the decision of  
4 whether it's going to impose a very significant term of  
5 months or whether it is going to impose life, it comes  
6 down to what is just that I've already mentioned, and  
7 finally I think it comes down to the need for the  
8 sentence that this Court imposes to protect the public  
9 from Mr. Watts.

10           And I understand that Mr. Watts has this view  
11 that he's polite about this, that he always asks, but  
12 minors can't consent, and I think you fail to recognize  
13 that. And if it weren't for your nephew, the Court  
14 wonders how many other young boys that you would have  
15 victimized.

16           The Court is extraordinarily well persuaded  
17 that if you are given an opportunity, you will continue  
18 to offend, and the Court is compelled in its final  
19 conclusion that that tips the final grains on the sand  
20 and suggests that the Court should impose the ultimate  
21 punishment option that is available to it in this case,  
22 which is a life sentence.

23           Therefore, for those reasons, and after having  
24 considered the 3553(a) factors, as the Court has  
25 explained, Mr. Watts, it is the judgment of this Court

1 that you are to be committed to the custody of the  
2 United States Bureau of Prisons to be imprisoned for a  
3 term of life on Count One of the indictment.

4           The Court will make some recommendations to the  
5 Bureau of Prisons, oddly recognizing that the first  
6 opportunity that the designations division of the Bureau  
7 of Prisons will have to look at these recommendations,  
8 both the designator and this Court will likely be  
9 retired by then, which is kind of odd. But in any  
10 event, to the extent that someone at the Bureau of  
11 Prisons has been notified that you are transferring over  
12 to them from the Texas state department of prisons, the  
13 Court hopes that they would follow these  
14 recommendations.

15           First of all, to the extent consistent with  
16 Mr. Watts' classification and the Bureau of Prisons  
17 evaluation, the Court would recommend that Mr. Watts  
18 serve his time at its facility in Littleton, Colorado.  
19 The Court does so on Mr. Watts' request and based on  
20 Mr. Watts' representation that there is a sexual  
21 treatment unit at Littleton, Colorado. I don't know  
22 personally whether that's true or not or whether it will  
23 be true or not in 20 years. So if that happens to not  
24 be the case, the Court's alternative recommendation  
25 would surely include that he be placed at a facility

1 where he would be offered treatment for his diagnosed  
2 psychological condition.

3           Along those lines, the Court, in its  
4 recommendation to the Bureau of Prisons -- and I'll try  
5 to think about how to better articulate this when we  
6 write the commitment paperwork, but conceptually the  
7 recommendation to the Bureau of Prisons is going to be  
8 that they flag your paperwork, and when you are  
9 designated to the Bureau of Prisons that they send your  
10 files to the most senior person within the Bureau of  
11 Prisons that is responsible for the empirical  
12 investigation of sex offenders. And what treatment  
13 modalities work, what treatment modalities do not that  
14 in effect, that in this Court's estimation, given your  
15 expressed willingness to participate in such programs or  
16 to voluntarily submit yourself to such evaluations that  
17 you are uniquely positioned to be of value for empirical  
18 study and investigative study and research and certainly  
19 would benefit from any therapy modalities that might be  
20 available as well.

21           So as I said, I will try to articulate that  
22 concept more precisely, but to the extent that they have  
23 a need for or are doing those types of studies, I'll ask  
24 that you be flagged for participation in any such  
25 long-term studies.

1           Given that the Court has imposed a life  
2 sentence, it will not impose a term of supervised  
3 release.

4           The Court has assessed the defendant's ability  
5 to pay a guideline range fine and is persuaded that the  
6 defendant does not have the present ability to pay a  
7 guideline range fine. However, the Court is also well  
8 persuaded that Mr. Watts is fully capable of being  
9 employed while he is incarcerated in the Bureau of  
10 Prisons, and from those earnings he will be able to make  
11 payments towards a fine, and for those reasons the Court  
12 is going to impose a fine in this case in the sum of  
13 \$20,000.

14           The Court is also going to impose a mandatory  
15 special assessment in the sum of \$100.

16           Mr. Watts, technically the fine and the special  
17 assessment, which I refer to collectively as financial  
18 penalties, are due and payable immediately, but to the  
19 extent that you cannot pay all of that amount  
20 immediately, you will be required to make payments on  
21 the following schedule.

22           Any unpaid financial penalty shall be paid by  
23 the defendant during his term of imprisonment at a rate  
24 of up to 50 percent of the defendant's available funds,  
25 in accordance with the Inmate Financial Responsibility

1 Program.

2 That is the Court's intended sentence in this  
3 case. Mr. Alfaro, do you know of any reason why this  
4 sentence should not be imposed as stated?

5 MR. ALFARO: No, your Honor.

6 THE COURT: Mr. Roberts?

7 MR. ROBERTS: No, your Honor.

8 THE COURT: Very well. The sentence will be  
9 imposed as stated.

10 Mr. Roberts, I believe there are some remaining  
11 counts of the indictment. What should the Court make of  
12 those?

13 MR. ROBERTS: The government would move to  
14 dismiss the remaining counts, your Honor.

15 THE COURT: That motion will be granted.

16 Mr. Watts, the last thing we need to cover  
17 today is that I need to explain to you your appeal  
18 rights. You technically have the right to appeal your  
19 underlying conviction in this case, but the  
20 circumstances where you could do that are fairly narrow.  
21 It would have to be a situation where you contend that  
22 your guilty plea was involuntary or somehow a byproduct  
23 of a fundamental defect in the proceedings which have  
24 not otherwise been waived by your guilty plea.

25 Of course, you do have the right to appeal the

1 sentence that the Court just imposed if you contend that  
2 it is procedurally or legally improper.

3           The important thing that you should be aware of  
4 is that regardless of why you appeal, or on what basis  
5 you may seek to appeal, there's a time limit for filing  
6 your notice of appeal. The time limit is 14 days. The  
7 time begins to run on the date that the Court's paper  
8 judgment of conviction is uploaded to the docket in your  
9 case, which will likely be one day at the first part of  
10 next week.

11           There is a filing fee that goes along with the  
12 filing of a notice of appeal, but if you cannot afford  
13 to pay the filing fee, then upon application, the Court  
14 will waive that fee.

15           The clerk of the court has forms and can assist  
16 you in filing those forms as necessary to perfect your  
17 notice of appeal and will do so upon, as I said,  
18 request.

19           You also have the right to be represented by  
20 counsel on appeal, and if you cannot afford to retain an  
21 attorney for that purpose, the Court will appoint an  
22 attorney to represent you.

23           I know that Mr. Alfaro will speak with you and  
24 counsel you further with regard to appeal issues, but do  
25 you at least understand your basic appeal rights as I've

1 just explained them?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: At the conclusion of our hearing,  
4 the defendant will be remanded to the custody of the  
5 United States Marshals Service pending transfer to the  
6 Bureau of Prisons or to the institution that he may be  
7 writted from.

8 Mr. Watts, as I began the explanation of the  
9 Court's sentence today, I explained that it was very  
10 difficult and obviously more difficult for you than for  
11 me, but I want you to know that I have given  
12 considerable thought, and based on all of the  
13 information available to me, and based upon all the  
14 factors that I am required to take into consideration  
15 that, while difficult, it is a sentence that the Court  
16 felt was just and appropriate.

17 Is there anything further today, Mr. Roberts?

18 MR. ROBERTS: No, your Honor. Thank you.

19 THE COURT: Anything further, Mr. Alfaro?

20 MR. ALFARO: No, your Honor.

21 THE COURT: We're adjourned.

22 (Proceedings adjourned at 3:38 p.m.)  
23  
24  
25

## 1 CERTIFICATE OF OFFICIAL REPORTER

2  
3 I, Dana Hayden, Federal Official Realtime Court  
4 Reporter, in and for the United States District Court  
5 for the Western District of Arkansas, do hereby certify  
6 that pursuant to Section 753, Title 28, United States  
7 Code that the foregoing is a true and correct transcript  
8 of the stenographically reported proceedings held in the  
9 above-entitled matter and that the transcript page  
10 format is in conformance with the regulations of the  
11 Judicial Conference of the United States.

12 Dated this 22nd day of June 2016.

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14  
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16 \_\_\_\_\_  
17 Dana Hayden, CCR, RMR, CRR  
18 Federal Official Court Reporter  
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